

HEATHER E. WILLIAMS, Bar #122664
Federal Defender
PEGGY SASSO, CA Bar #228906
Assistant Federal Defender
Designated Counsel for Service
2300 Tulare Street, Suite 330
Fresno, California 93721-2226
Telephone: (559) 487-5561

Attorneys for Defendant
MIKE MARTY HERNANDEZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIKE MARTY HERNANDEZ,

Defendant.

Case No. 1:22-cr-00160 NODJ-BAM

**STIPULATED MOTION AND ORDER TO
REDUCE SENTENCE PURSUANT TO 18
U.S.C. § 3582(c)(2)**

RETROACTIVE CRIMINAL HISTORY
REDUCTION CASE

Defendant, MIKE MARTY HERNANDEZ, by and through his attorney, Assistant Federal Defender Peggy Sasso, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney Shelley D. Weger, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), after taking into account the policy statements set forth in USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable;

2. The United States Sentencing Commission recently amended the Sentencing Guidelines to limit the overall criminal history impact of “status points” by assigning zero status points for offenders with six or fewer criminal history points, and one status point for offenders

with seven or more criminal history points (“status-point provision”). *See* Amendment 821, Part A; *compare* USSG § 4A1.1(d) (2022), *with* USSG § 4A1.1(e) (Nov. 1, 2023). The United States Sentencing Commission made the status-point provision retroactive beginning February 1, 2024. *See* USSG § 1B1.10(e)(2) (Nov. 1, 2023); 88 Fed. Reg. 60534;

3. Mr. Hernandez received 6 criminal history points based on his past criminal convictions and 2 criminal history points pursuant to former USSG § 4A1.1(d) for a total criminal history score of 8, which placed Mr. Hernandez in criminal history category IV with a recommended guideline range of 37 - 46 months;

4. On February 6, 2023, this Court sentenced Mr. Hernandez to a term of 37 months imprisonment;

5. The sentencing range applicable to Mr. Hernandez was subsequently lowered by the status-point provision, which reduces his criminal history score to 6, lowering his criminal history category from IV to III, resulting in an amended advisory guideline range of 30 to 37 months;

6. Because Mr. Hernandez is eligible for a reduction in sentence, the parties request the Court enter the order lodged herewith reducing Mr. Hernandez’s term of imprisonment to 30 months, effective 10 days from the date of the amended judgment. If the amount of time served as of the effective date of the Court’s Order exceeds 30 months, the sentence is instead reduced to a sentence of time-served effective 10 days from the date of the amended judgment.¹

Respectfully submitted,

Dated: February 2, 2024

PHILLIP A. TALBERT
United States Attorney

Dated: February 2, 2024

HEATHER E. WILLIAMS
Federal Defender

/s/ Shelley D. Weger
SHELLEY D. WEGER
Assistant U.S. Attorney

/s/ Peggy Sasso
PEGGY SASSO
Assistant Federal Defender

Attorney for Plaintiff
UNITED STATES OF AMERICA

Attorney for Defendant
MIKE MARTY HERNANDEZ

¹ This 10-day period is requested by the Bureau of Prisons to perform its statutory duties and release planning.

ORDER

This matter came before the Court on the stipulated motion of the parties for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, that Mr. Hernandez is entitled to the benefit of Amendment 821, Part A, the new status point provision, codified at USSG § 4A1.1(e), which reduces his criminal history category from IV to III, resulting in an amended guideline range of 30 to 37 months.

IT IS HEREBY ORDERED that, pursuant to USSG § 1B1.10(b), the term of imprisonment imposed in 2023 is reduced to a term of 30 months, effective 10 days from the date of the amended judgment. If the amount of time served as of the effective date of this Order exceeds 30 months, the sentence is instead reduced to a sentence of time-served effective 10 days from the date of the amended judgment.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above reduction in sentence and shall serve certified copies of the amended judgment on the United States Bureau of Prisons and the United States Probation Office.

Unless otherwise ordered, Mr. Hernandez shall report to the United States Probation Office within seventy-two hours after his release.

DATED: February 5, 2024.


CHIEF UNITED STATES DISTRICT JUDGE